

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

WRIT PETITION NO : 14328 of 1994

Between:

The Fishermen Cooperative Society, Somaram Village, Neredcharla Mandal, Nalgonda District, through its President, S.Yellaiah S/o. Sayanna aged 35 years, R/o. Somaram Village, Neredcharla Mandal, Nalgonda District.

..... PETITIONER

AND

- 1 The Commissioner of Fisheries, Andhra Pradesh, at Hyderabad.
- 2 The District Collector, Nalgonda District at Nalgonda.
- 3 The Asst. Director of Fisheries Nalgonda District at Nalgonda.
- 4 Maloth Somla s/o. Darla
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal, Nalgonda District.
- 5 Peddepanga Pedda Atchaiah s/o. Guravaiah
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal, Nalgonda District.
- 6 V. Chinna Atchaiah S/o. Samel
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal, Nalgonda District.
- 7 Polapally Devaiah S/o. Bikshamaiah
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal, Nalgonda District.
- 8 Pendem Janaiah s/o. Guruvaiah
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal, Nalgonda District.
- 9 Gunja Balaswamy S/o. Venkataiah
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal, Nalgonda District.
- 10 Vemula Balaswamy S/o. Abbaiah
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal, Nalgonda District.
- 11 Vemula Sudhakar S/o. Guruvaiah
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal,

Nalgonda District.

- 12 Vadapally Edaiah S/o. Somaiah
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal,
Nalgonda District.
- 13 Vemula Jokeen s/o. Innaiah
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal,
Nalgonda District.
- 14 Kalam Venkateswarlu S/o. Somaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 15 Inupamula Veerabhadraiah S/o. Srisailam,
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 16 Kalam Kotaiah S/o. Somaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 17 Pendem Gurvaiah s/o. Kanakaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 18 Kalam Punna Rao S/o. Somaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 19 Kalam Someshwar Rao S/o. Kotaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 20 Pendem Biksham S/o. Guruvaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 21 Pendem Venkaiah S/o. Guruvaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 22 Burri Saidulu S/o. Latchaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 23 Kattakota Venkateswarlu S/o. Lakshmaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 24 M.A. Sathar S/o. Karim Saheb
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 25 P. Saidulu S/o. Chinna Somaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 26 P. Muthaiah S/o. Chinna Somaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 27 P. Das S/o. Bakkaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 28 P. Venkatarathnam s/o. Anandam
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 29 Dorapally Kistaiah S/o. Chinna Somaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 30 Dorapally Latchaiah S/o. Somaiah
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 31 Dorapally Yesu S/o. Nathanalu
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 32 Dorapally Das s/o. Abraham

- R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 33 Md. Kaseem S/o. Silar Sahab
R/o.Somaram Village, Neredcharla Mandal, Nalgonda district.
- 34 Malothu Valia S/o. Chandru
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal,
Nalgonda District.
- 35 Malothu Golia S/o.Devula
R/o. Burguthanda H/o. Somram village, Neredcharla Mandal,
Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ or writs, order or direction, declaring and setting aside the proceedings dated 4.7.1994 issued in Lr.No. 388/B/93 on the file of the third respondent, as illegal, arbitrary and without jurisdiction and award Costs.

Advocate for the Petitioner: MR.K.RAGHUVeer REDDY

Advocate for the Respondent Nos 1 to 3: GP FOR AGRICULTURE

Advocate for the Respondents 5 and 24: Mr. L.Prabhakara Reddy.

The Court made the following :

ORDER:

Petitioner is questioning the proceedings dated 4.7.1994 issued by the Assistant Director of Fisheries, Nalgonda district addressed to the President of Petitioner society directing it to place the matter in managing committee of the society and adopt a resolution by admitting 32 persons as members of the society by collecting share capital of Rs.10/- and admission fee of Rs.1/- from each person and make necessary entries in the books of accounts of the Society. The petitioner

questioned the legality and validity of the order on number of grounds, one of the major grounds being that the petitioner society was registered in 1982 and as and when applications were received from eligible members, same were duly considered and the present strength of the society is 111. Having regard to the viability norms issued by the Commissioner with regard to water spread area, the water spread area available in the area of operation was hardly sufficient for the existing members and there was no scope for inclusion of fresh members. It was also pointed out that the respondents 4 to 35 had not made any application to the society seeking admission and no direction can be issued against the co-operative society directing it to act in a particular manner when the decision rests with the General Body of the co-operative society.

Operation of the impugned proceedings was suspended by interim order and till today no counter affidavit has been filed by the respondents 1 to 3 though the Writ Petition was admitted in the year 1994.

I have heard the counsel for the parties and gone through the records. On the face of it, the proceedings which directed the petitioner society to pass a particular resolution without giving any option to the society to accept the membership of the proposed members, is bad in law since the Assistant Director of Fisheries could not

have compelled the society to accept the 32 persons as members when according to the petitioner society even the area available to it is hardly sufficient for existing members.

In this view of the matter, the impugned order is set aside making it clear that any person who likes to be included as member of the petitioner society may apply to the society in accordance with law for being admitted as a member and as and when such petitions are received, the petitioner society will take a decision in accordance with law.

Ordered accordingly and the Writ Petition is disposed of.

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24.06.2004

CC to:

- 1)The Commissioner of Fisheries, Andhra Pradesh, Hyderabad.
- 2)The District Collector, Nalgonda district, Nalgonda.
- 3)The Asst.Director of Fisheries, Nalgonda district at Nalgonda.
- 4)Two CCs to the G.P.for Agriculture, High Court Buildings, Hyderabad.
(o.u.t.)
- 5)Two CD copies.

DRK/TVR